

In Lebanon, the Wheels of Justice Do Not Grind

The Hariri tribunal hasn't led to a single arrest. Biden should let it expire and help Lebanon in better ways.

By David Schenker

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Following the 2005 assassination of former Lebanese Prime Minister Rafik Hariri, a billboard demanding “the truth” was erected in downtown Beirut. It came with a digital counter tracking the number of days since the murder. As the tally approached 1,000 days, the three-digit billboard counter was set to run out of room. In late 2007, the sign was expanded to include an extra digit. In 2009, after the establishment of the Special Tribunal for Lebanon in The Hague with the task of investigating and prosecuting Hariri's killers, the billboard's tagline was changed to “Time of Justice” and the counter reset to zero.

The number is well into four digits again. Nearly 6,000 days have passed since the assassination, but justice has not been served. The truth about who killed Hariri has been firmly established by the court, but in Lebanon, where the verdict needs to be implemented, the wheels of justice do not grind. As with so many political murders there, no one has been held accountable for his death.

In recent weeks, the Hariri murder has resurfaced in the news amid reports that the tribunal will permanently cease its work at the end of July. Enduring an unprecedented economic crisis, Beirut has been unable or unwilling to pay its obligatory 49 percent of the tribunal's current budget of \$40 million per year. (The remaining 51 percent is paid by 28 other donors, including the United States.)

Meanwhile, once-robust international support for the court has waned since its August 2020 conviction in absentia of Salim Ayyash, a member of the Lebanese terrorist organization Hezbollah, for Hariri's murder. Though the court did not explicitly link him to the Iran-supported Shiite militia, the U.S. State Department has identified Ayyash as “a senior operative in Hizballah's Unit 121, the group's assassinations squad which receives its orders directly from Hizballah leader Hasan Nasrallah.” The court did not convict any of the other people accused or suspected of having been involved in the assassination, including Syrian intelligence operatives, who in the early years of the tribunal were primary targets of the investigation.

But even if the Lebanese government and the United Nations try to salvage the court, the Biden administration should let the tribunal expire. The court cannot implement its verdict in its most important case, and with the economic situation in Lebanon rapidly deteriorating, continuing to pay for the tribunal would constitute an appalling misallocation of resources.

Like U.N. Security Council Resolution 1701, which sought to prevent the rearmament of Hezbollah after its war with Israel in the summer of 2006, the tribunal was a well-intentioned effort by the international community to help change Lebanon for the better. At least initially, the court was envisioned as a mechanism to move Lebanon away from its long-standing culture of impunity and lawlessness toward a

new era of accountability. Proponents of the tribunal argue that, to this day, it continues to serve this purpose by exposing Hezbollah's crimes and thus damaging its reputation. Alas, there is little evidence to suggest that Hezbollah's supporters are repulsed by this or any other murder linked to the organization. Instead, 16 years after Hariri's death, the tribunal, which has cost various countries' taxpayers nearly \$800 million, has become a distraction amid Lebanon's self-inflicted state failure and Hezbollah's increasing dominance of the state.

Notwithstanding its impending demise, the court maintains that it still has important work on its docket. In the coming months and years, the tribunal had planned to conduct trials for the 2005 assassination of George Hawi, as well as the attempted murders of Marwan Hamadeh in 2004 and Elias Murr in 2005—all prominent Lebanese politicians. (Hawi was an outspoken critic of Syrian meddling in Lebanon, as is Hamadeh.) Yet the only individual indicted by the tribunal and slated to stand trial for these crimes is—once again—Salim Ayyash, Hariri's assassin. The idea that one Hezbollah operative is single-handedly responsible for a wave of meticulously planned political assassinations is absurd and contradicts the tribunal investigators' own findings.

Ayyash, regrettably, is not likely to face consequences for Hariri's death, despite having been found guilty. He is presumably in Lebanon, where he enjoys the protection of Hezbollah; Nasrallah has personally said Hezbollah would prevent his arrest. Toeing the line, the Lebanese authorities have likewise never attempted to apprehend him. Meanwhile, the U.S. State Department in March offered a reward of \$10 million for information helping identify and locate Ayyash.

Rather than spending years and additional millions of dollars on more meaningless convictions of the same individual, Washington should instead focus on operationalizing the Hariri verdict and apprehending Ayyash. In its first 100 days, the Biden administration has devoted significant time to rebuilding traditional U.S. alliances with European partners. The supposedly improved dynamics with the continent should ideally provide an opportunity for Washington to redouble its engagement with the 11 or so European Union member states that financially supported the tribunal but have not yet designated Hezbollah as a terrorist organization. Reports that the U.S. and French ambassadors to Lebanon traveled together to Riyadh in the first week of July suggest a new and unprecedented level of coordination vis-à-vis Lebanon's political and economic crises.

One major obstacle that stands in the way of a coordinated policy to help Lebanon—much more than whether or not the tribunal gets extended—is that much of the EU remains committed to the fiction that Hezbollah's political and military wings are distinct and separate entities. These European governments are contradicted by the terrorist organization's most senior officials, including Hezbollah Deputy Secretary-General Naim Qassem, who in 2012 stated: "We don't have a military wing and a political one. We don't have Hezbollah on one hand and the resistance party on the other." EU states are likewise well aware that Hezbollah is a disciplined organization. Even if the tribunal presented no "smoking gun" linking Nasrallah directly to Hariri's assassination, it is inconceivable that Ayyash was freelancing.

The absence of national-level designations of Hezbollah in its entirety as a terrorist organization enables the organization to continue its "political" operations throughout much of the EU. It also complicates Europol's work targeting Hezbollah finances, forcing the agency to distinguish between funds being channeled to the group's so-called "military" and "political" wings. Full designations would facilitate prosecution of its members in Europe and beyond, and help to delegitimize the organization by

compelling European officials—such as French President Emmanuel Macron—to cease having contact with Hezbollah representatives.

If it were necessary to further convince Washington's European partners of Hezbollah's role in the murder, the Biden administration might consider passing on some of the intelligence regarding Ayyash's position in Hezbollah's assassination squad.

In any event, 16 years after the Hariri assassination, the work of the tribunal is done. It is now time for those states that underwrote this titular exercise in accountability to actually hold the killers to account. Europe has long been reticent to designate all of Hezbollah as the state-capturing terrorist organization it is, so this will undoubtedly prove a heavy diplomatic lift for Washington. Still, as the tribunal concludes, it's difficult to imagine a better time to press the issue. If the Biden administration can't convince its European partners to act, perhaps it could persuade these states to at least direct their tribunal contributions to a cause that would better help Lebanon—such as that of the World Food Program, which (along with the World Bank) is currently feeding a considerable portion of the Lebanese population suffering, in large part, due to Hezbollah.

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